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Ethics and Heritage

Essays on the philosophy of Ágnes Heller

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Heller on the Ancients

Agnes Heller once made the comment that all philosophers, after the ancient Greeks, fall into one of two essential groups: philosophers follow either Plato or Aristotle. However refined and extensive one's classical interests might be, as a philosopher one finds oneself *either* in the train of Aristotle *or* of Plato. In 1966, Heller published a book on Aristotle's ethics; her moral works continued to rely upon readings of Aristotle thereafter. Yet Heller has not written a single book, to my knowledge, that is not peppered with references to the Platonic corpus. *An Ethics of Personality* hinges on a distinctive reading of Plato that underscores both his immanent ethics and his responsibility for the metaphysics of transcendence. In recent essays, Heller has extended her claims for Plato's modernity, for his unique ethics, and for his unparalleled and founding aesthetic creation of at least two literary genres, one of which is philosophy. Beyond the usual truisms at least as old as Raphael's *School of Athens*, what accounts for such a stark divide between Plato and his student? And where does Heller see herself? Although Heller often addresses different branches of each Plato's and Aristotle's thought, I will focus almost exclusively on Heller's understanding of the concept of justice in both thinkers. It is my hope that, by more closely following her analysis of justice in both Plato and Aristotle, some of the depth of Heller's engagement with the ancients, and of their presence in her decidedly modern thought, can be made manifest.

Heller's 1996 *An Ethics of Personality* is the third and last work of her moral philosophy.¹ Joachim, an interlocutor in the dialogues that form its middle division, plays, in part, the role of Heller's Kantian

¹ Heller, Agnes, *An Ethics of Personality*, Cambridge, Blackwell Publishers, Inc, 1996.

mask. Joachim's comments about Plato's ethics are telling, for Joachim follows Kant himself in tracing a genealogical trajectory from Kant back to Plato. This trajectory will prove indispensable for understanding Heller's reading of Plato. In the *Critique of Pure Reason*, Kant credits Plato with first recognizing that Ideas are culled neither from sense experience nor from the understanding.² Ideas are cognitive archetypes, mental markers that allow us to grasp the regular arrangement of natural structures and that become efficient causes in moral decision-making, when reason jointly posits the guiding maxim and the universal imperative to test its merit. A transcendental Idea, Kant argues, *shows* its effective presence where human reason proves to be causal, whether in providing the unity necessary for scientific explanation or the orientation in thinking necessary for free, ethical action. Yet ultimately, Kant admits, transcendental Ideas are neither arbitrarily invented nor evidentially certain. The Ideas that ground our moral bearing in the world are *problems*, given necessarily to reason by reason itself; while the origin of transcendental Ideas cannot be proven, their fecundity and their inexorability in guiding our actions cannot be legitimately denied. Kant enjoins his readers, therefore, to preserve the term *Idea* in its founding, Platonic sense, which he takes to be crafted to express precisely the cognitive composition that he too elaborates.³ Even if, Kant writes, Plato did not understand his own position on the nature of Ideas in just this way, then Kant claims to understand Plato better than Plato understood himself.⁴ Plato may have sometimes written in a way contrary to his intentions; but just these deeper intentions, Kant declares, are also his own.

Heller, or her mask Joachim, agrees. Joachim argues that in the two paradigmatically ethical dialogues, the *Gorgias* and the *Republic*, Plato shows Socrates deploying the furthest reaches of rational argu-

² Kant, Immanuel, *Critique of Pure Reason*, Guyer, Paul, Wood, Allen W., tr/ed., Cambridge, Cambridge University Press, 1998. B370 ff.

³ Ibid. B376

⁴ Ibid. A314

ment in order to prove, definitively, that it is better to suffer injustice than it is to commit it.⁵ But Socrates fails. Via Plato's staging, it becomes clear that the founding statement of moral philosophy (it is better to suffer than commit injustice) cannot be proven. Yet this assertion is the *arche* that will potentially ground and extend our moral thought and action; if it is untrue, then morality is impossible. Plato presents Socrates' rational failure as well as his real commitment to the moral assertion; he presents Socrates' lived philosophy. As such, Plato pushes us to consider the value of an unconditioned absolute, together with the knowledge that our internal principle rests upon a pre-philosophical, even tautological position. All the while, Joachim goes on to ask, virtually quoting Heller's *General Ethics*,⁶ good people and bad people exist – so how are they possible? He concludes, with Plato's Socrates, "We must go ahead and prove that which avoids proof."

Plato invented the supreme Idea of the Good to point the way out of this riddle. In Joachim's words: He invented the philosophical myth of recollection to prove his point, and in the same act he invented the language game which we have since been calling metaphysics. Through this detour he finally succeeded in connecting knowledge and morals. If you know the idea of the Good – you are good. The idea becomes the source of knowledge and of goodness.⁷

In Joachim's telling, Kant replaces the Platonic Idea of the Good with the moral law, severing the umbilical cord between knowledge and morality. Yet what else, the reader is led to ask, *is* the Good if not the practical, regulative principle that we access when seeking the best answers to our moral questions? Heller's take on the matter emerges in a subsequent exchange between Joachim and his interlocutor, Lawrence. Lawrence asserts "If you probe ... deeper into the beauti-

⁵ Heller, Agnes, *An Ethics of Personality*, Cambridge, Blackwell Publishers, Inc, 1996. 120.

⁶ Heller, Agnes, *General Ethics*, Cambridge, Blackwell Publishers, Inc, 1988.

⁷ Heller, Agnes, *An Ethics of Personality*, Cambridge, Blackwell Publishers, Inc, 1996. 120.

ful sentences... of Plato, you will see that he too often settled arguments with metaphors.”⁸ Joachim counters: “He invented better metaphors.”

Heller, like Kant, asks us to regard the conceptual initiatives of the Greeks as symbolic indicators. Heller’s affinity with the Platonic figurative imagination notwithstanding, her intention is to probe the development of Plato’s imagism. Heller, that is, does not just deploy a genealogist’s investigation of ancient initiatives; she makes a claim for the application of Platonic ideas, as regulative ideals. Her *Beyond Justice* makes this program explicit. In a section titled “The philosophical idea of justice and the paradox of reason,” Heller clears the dead wood from the ground of a Christian, or Christianizing Platonism: to interpret Plato’s ideal republic as the vision of a redeeming paradise, to identify Plato’s concept of justice with a real, if otherworldly ‘just city’, is to miss “both the complexity of Plato’s argument and the perplexing *modernity* of his approach.”⁹ In Plato, Heller claims, man-made justice concludes in the paradox of reason; it is Plato’s genius to fully articulate this paradox. Here again, Heller focuses on the *Gorgias* and the *Republic*, seeing in them the clearest concentration on the question of how ‘righteousness is possible within the framework of pure practical reason.’ On Heller’s reading of the Platonic paradox, Plato discovers and presents the insight that *evil* involves a misuse of reason. Had he spoken directly, rather than through Socrates, the force of this insight would have dissipated.

Instead, Plato the stage-designer or tragico-comic poet embeds his insight into the argument itself, presenting “the argument of the action.”¹⁰ Plato knows that we know that Socrates, unable to prove that it is better to suffer than commit injustice by rational argumenta-

⁸ Ibid. 179.

⁹ Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 64.

¹⁰ Seth Benardete’s phrase (Benardete, Seth, *Socrates’ Second Sailing: On Plato’s Republic*, Chicago, University of Chicago Press, 1989.; Benardete, Seth, *The Bow and The Lyre: A Platonic Reading of the Odyssey*, Maryland, Rowman and Littlefield Publishers, Inc, 1997.).

tion, all the while lived and died by his beliefs. In reading the Platonic dialogues, we are interested not merely in the machinations of logical or dialectical procedure; we are fascinated, as is Plato, by a Socrates who ultimately obeys only the voice of his own conscience, and who does not yet know the fate that its principles will occasion. Knowing of Socrates' end, we are captivated by his course, and Plato exploits or invents every literary trope and form necessary to present Socrates to us in all of his captivating idiosyncrasy. In Heller's words, Plato captures the essential Socratic *gesture*, the act of authentic righteousness, which no argument can justify and which lurks behind all of his arguments.¹¹

But beyond this separation of writer from subject, dramatic narrator from committed ethicist, Heller takes the Platonic innovation, 'the perspective of this gesture of the future', to be itself a moral imperative. For Socrates is pictured in dialogue with men – in the *Republic* and the *Gorgias* they are Polus, Adimantus, and Glaucon – who, while somewhat inclined toward right action or moral goodness, are also compelled by the arguments in favor of injustice by Callicles, Thrasymachus, or their inheritors. Socrates' younger companions are men who stand in the middle of ethical possibilities, and are hence their focal points. Heller thinks of the clash between Socrates, with his arguments in favor of justice, on the one hand, and Callicles or Thrasymachus, favoring injustice on the other, as a *wager*. The wager is staked by the warring representatives of righteousness and malice, but they do not bet their own souls, for they are already decided. Rather, the ante is the men standing in the middle of ethical possibilities, inclined toward the just but also intrigued by the unjust. The wager between Socrates and the purveyors of injustice, in Heller's telling, is all about convincing the average person to choose, finally, one alternative over the other.

This is Socrates' wager, and it is staked and fought out in the realm of dialectics. But what is ultimately convincing, if anything, is Socrates' rousing and application of what Heller calls the "charisma

¹¹ Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 65.

of goodness."¹² The invitation that Socrates issues, to a just life and its defense, is performative. Even where Socrates explicitly summons us to the good life, the sense of his words is constructed, by Plato, in the context of Socrates' own life. And Heller finds that the portrayal of Socrates' life, as well as the presentation of the myths that fill the Platonic dialogues, are "placed in the scales in an attempt to win the wager for the souls of these men of the middle ground."¹³ It is images, finally, whether of mythologized philosophers or their mythic offspring, on which we fix our sights when caught up in the turmoil of real ethical difficulties. From out of the darkened tangle that mind and world have cast about, the clarity of one good person magnetizes us; one symbolic image may draw us on more unerringly than any logical proof. It is no accident, then, that Heller's Joachim connects Plato with Kant, but Heller seems to favor Kant's reading of Plato even over Joachim's: for the moral law does not finally sever the tie between knowledge and goodness. On the contrary, Kant's revaluation of the regulative power of Platonic ideas is on par with Heller's appreciation of the same. Though we cannot *prove* the supersensible origin of reason, the good will, or the moral law, our utilization of them, via transcendental or regulative ideas, continues to extend knowledge within the bounds of immanence and to support goodness without the guarantee of earthly recompense. Moreover, just as Kant will go on, in the third *Critique*,¹⁴ to argue that aesthetic appreciation of the Beautiful prepares us for the rigors of transcendental argumentation, Heller sees in the Platonic portrayal of beautiful, harmonious souls, and in the beauty of the Platonic dialogue as a unified whole, a route of emotional access and hence a method of aesthetic education which speaks to the facets of the psyche that reason either fails to reach or fails to sway.

¹² Ibid. 66.

¹³ Ibid. 66.

¹⁴ Kant, Immanuel, *Critique of the Power of Judgment*. Paul Guyer ed., Paul Guyer and Eric Matthews tr., Cambridge, Cambridge University Press, 2000.

But Plato also stages his insight that evil, originating neither in human nature nor human conventions, is nothing other than *perverted reason*.¹⁵ In Socrates' respective clashes with Callicles and Thrasymachus, each of the men proceed logically, and each argues well. Even if Thrasymachus is quickly reduced to a foolish emotional outburst, Heller finds Socrates' claim, at the close of Book I of the *Republic*, that he still does not know what justice is, to be a corresponding comic jest. The point, for Heller, is that while Socrates' arguments, his wager, issue from the "clownish knight of righteousness," their support of the proper use of reason will only come to light *insofar as he wins the wager*. Plato knows that Socrates cannot win by argument alone; if he is to stage Socrates' wager, successfully linking reason with goodness, and the misuse of reason with evil, then Plato must "tip the balance" in favor of Socrates and thus in favor of the long route into philosophy.

So Thrasymachus, presaging one Nietzschean theme, is written to argue that *law* or convention (*Nomos*) is nothing but an expression of power, laid down by those who have the strength to set values, and the interest in extending their rule. Thrasymachus's righteous person, in obeying the law, unwittingly acts in the interest of the unjust, the law-givers. Since injustice is nothing other than a person's own profit and interest, and since we are born into a world of injustice, Thrasymachus concludes that we would be happier and freer if we too were unjust, disregarding the laws of others and looking only to our own interests.

Callicles, anticipating another Nietzschean line, that of the 'slave revolt in morality', argues that the weak band together in mutual fear and hatred of the stronger, and devise rules for keeping the strong in check. The weak want an equal share of all resources, although *nature* would have provided them with far less. Still, truly strong individuals will respond to nature and not to human law; they will smash con-

¹⁵ Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 69. ff.

ventions and crush their written and institutional control centers. With this, the strong will remind us of the real justice of nature, against which any argument for human righteousness pales.

Heller argues that Plato, the dramatist, is curious to see how deep the arguments of the sophists may go, to test their strength for himself. What Plato's Calicles and Thrasymachus hold in common is that, in making the case for injustice, they each make a case for human "freedom as against the *slavery of being subjected to norms*."¹⁶ Happiness, each sophist aims to show, is incompatible with the virtue or the freedom of the citizen. Calicles and Thrasymachus argue that we can only be free, and happy in our freedom, insofar as we rid ourselves of external authority. This is their shared political position. And both Thrasymachus and Calicles, with different levels of sophistication, argue that any internal authority which might command obedience to external laws is but a byproduct or a shadow of external authority, which must be shed for the sake of freedom and happiness. Essentially, no real internal authority exists; this is the sophists' shared moral position.

What Plato grasps, according to Heller, is that his representative sophists are right – insofar as they prefigure the awareness that *evil* stems neither from human nature nor from human laws. Rather, people become evil by following evil principles; people become evil by reasoning themselves and others into the position that injustice is preferable to justice. Heller again chooses Kantian concepts to explain a Platonic insight: evil is a *maxim* for acting in an evil way. The shared maxim of Plato's sophists is 'no norm is valid'; and, if no norm is valid, one should disregard all norms and expect all others to do the same. The fact that laws are bad, or that we may observe evil rewarded and goodness ignored or punished is not evil in itself; what is evil is "arguing on behalf of these things." It is in this sense that evil is nothing other than perverted reason, and that Plato's position, in Heller's words, is "breathhtakingly modern." The paradox of reason is

¹⁶ Ibid. 69.

sharpened not only at the limits of rational argumentation confining Socrates, in his attempts to argue that it is better to suffer than do injustice, but also here, where corresponding arguments allow the counter-position to shine. Callicles, in particular, does not argue irrationally; on the contrary, his perversion of reason manifests in his ability to poison conscience and respect with well-argued reasoning. Without Plato's authorial 'gesture of the future', without his tipping of the balances that convey to us the charisma of Socrates' goodness, we would have no good reason to reject Callicles.

Heller, it was said, claims that Socrates can only win his wager for the rational and moral commitment of all of us occupying the middle ground, if his arguments for the right use of reason trump those for the misuse of reason. She also claims that, given the paradox of reason he identifies, Plato must therefore tip the balances, or provide another sort of argument in and through the action of the dialogue. Once again, Heller links Plato's method with Kant's: for Socrates is written to argue for good, as against perverted reason, by proceeding from common sense to philosophy – just as Kant does two millennia later in the *Groundwork of the Metaphysics of Morals*.¹⁷ Working through the arguments Socrates defends in the *Republic*, Heller shows how Socrates' position, while remaining consistent, also consistently bottoms out; Socrates cannot make his case on common sense alone. Beginning together in the commonsensical, Socrates takes his interlocutors to the logical conclusions and mythic counterparts of his arguments, while Plato takes the reader into the slowly emerging necessity of philosophy.

Upon realizing that he still does not know what justice is, at the close of Book I, Socrates asks us to consider the city – if only metaphorically, as the soul writ large. Making the city-soul connection will allow Socrates to address the dual shortcomings – both political and ethical – of the arguments of perverted reason. On Heller's

¹⁷ Kant, Immanuel, *Groundwork of the Metaphysics of Morals*, Mary Gregor ed., Cambridge, Cambridge University Press, 2004.

reading, the republic Socrates builds can be understood as a polysemic symbol, offering three versions, of increasingly rational sensitivity, of the vision of justice as authentic righteousness. In the first version, Socrates presents the "utopia of the city," in which the justice of the body politic, like that of its corresponding soul, relies upon the strict separation of its different, internal elements (whether social castes or virtues). But Socrates is motivated by the question of whether it is better to do or suffer injustice, and in the utopian city, this question has been circumvented, not answered. No one suffers or commits injustice in the ideal city, and justice is discernible only formally, in the merit of the city as a whole. Presented with this utopian figure, we find that we can press still harder on our common sense assumptions about justice, for the fundamental question sustaining them has not been answered.

In the second version of his symbol, a city ruled by philosophers is founded, in other words, philosophy is institutionalized. Plato tells us that in philosophy, one may set up as many cities as one likes; indeed, each philosopher sets up his own "city in the sky." Philosophy, here, already is the utopian ideal made real; whoever lives within it is already righteous. Still, the truth behind our commonsense assumptions about justice is thwarted, for the philosopher raises questions about doing or suffering injustice not because he does not know what to do – for he does know: he is already just. The philosopher either raises these questions ironically, as a rhetorical exercise he practices on himself, or sincerely, but then only for others – in the battle for the ethical commitments of other people who lack his unflappable security. So the philosopher stays within philosophy, essentially unruffled by the question of justice, having sufficiently answered it, or he leaves the city of philosophy, on a rescue mission to bring others back into it. The parable of the cave most sharply underscores this option.

The third and most sublime version of the republic returns to Socrates' assertion that he only wanted, in envisioning a city, to view the soul writ large. Here again, the city is the psyche, but in order to think about it, we have used, and climbed free of, the conceptual lad-

der first developed to make sense of the obscure soul. In this soul, there is no circumscribed difference between discrete elements whose virtue is to keep to themselves. On the contrary, now with clear notions of courage and temperance in mind, we also have the wisdom to combine them. Unity is the mark of the complete soul; it is indestructible on account of its internal cohesion. The harmonious soul is without violent regimentation. This soul belongs to the person of conscience – he follows laws strictly, but only laws he himself, with philosophical acumen and deduction, prescribes. Plato's Kantianism, in Heller's telling, is once again at the fore.

But Heller's intention is not merely to exhibit the continuity between the two great idealists; her point is that, unlike in Kant's writing, Plato means to show that, at all three levels of interpretation, Socrates' republic fails. We *never* know why it is better to suffer than do injustice, for even at the third, most sublime level, philosophical wisdom, concerned with the unity of the soul, lays down the law. Reason posits and follows its own law, wherever the soul, in its internal unity and freedom from external constraint, is just and sovereign. The paradox of reason is that reason will lead to unreason; Plato shows that this paradox can be productive depending upon the type of faith to which it leads. As Socrates admits in Book VII of the *Republic*, anyone who merely follows the principles of morality prescribed by parents, state, religion or another external authority can be swayed by the anti-authoritarianism of a Thrasymachus.¹⁸ Reasons may always be met head on with contrary reasons. Yet none of the three versions of Socrates' republic gives way to *aporia* or *epoche*. Heller argues that the first utopia of the city, with its avoidance of the primary question of justice, must lead to faith in an otherworldly or utopian justice. The second city ruled by philosophers, or philosophy itself, leads to faith in the authority of the philosopher, or to the

¹⁸ Plato, *Collected Dialogues*, Hamilton, Edith and Cairns, Huntington ed., Princeton, Princeton University Press, 1989. 538c-e; Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 73.

philosopher's faith in the authority of his own knowledge of goodness. In philosophy, it is always true that it is better to suffer than do injustice; for so the authority of philosophy speaks. And again as regards the city within, the psyche, the paradox of reason leads to faith in a revelation, viz. to the surety granted by having gained sight of the Ideas.

Heller's Plato sets the paradox of reason into three configurations, each of which give way to a kind of faith: in other-worldly justice, in philosophical authority, and in spiritual revelation. Each form of faith speaks with power to reason. So the question is not whether reason can resist power, it cannot. It remains only to decide *which* power we will introduce to reason. Socrates has no argument against obeying his own daimon, or the laws of the state, or the edicts of gods or their oracles. Heller's Plato, though, is most interested in studying the pith of the command-obey configuration in souls and cities; for with it, he uncovers and gives voice to a crisis in the ethico-political concept of justice. It can never be proven that it is better to suffer than do injustice, yet in philosophy, this is always already granted as true – for the founding of the city of philosophy is itself the demonstration of this truth. Plato is not simply saying that moral and rational maturity require philosophy; he is asserting, even more specifically, that *only* through, in Heller's words, "firmness in the acceptance of an external authority can internal authority (conscience) truly develop as pure conscience."¹⁹ The faith we have in an external authority, whether it is the moral law, the philosophical wisdom of our forebears, or a transcendent ideal, provides the orientation necessary when reason fails to guide us. Hence, Plato paints a day's picture of Socrates always against the backdrop of his life and death; he fills Socrates' speeches with myths that underscore the value of resolve, justice, and of the influence of other worlds upon this one, in order to inspire our faith in one of the paradigms of external authority necessary for internal development.

¹⁹ Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 73.

The wager that Plato stages Socrates making, and the paradox of reason that occasions it, fade from view in Aristotle's work. For Aristotle, justice is a mean between doing and suffering injustice – the definition fairly clearly guides the deliberative process that any actor should undertake when faced with an ethical issue. In Stoicism and Epicureanism, the wager and the paradox are completely absent. By the time of late antiquity, Heller writes, righteousness has become a purely ethical concept; in committing acts of justice, people are advised to be indifferent to all injustices they may have suffered.²⁰ The story Heller tells about the development of the concept 'justice' may be appreciated for the twists, turns and subplots of its historical happening. Heller finds that, even more than Plato, Aristotle understands that the philosophical *concepts* he addresses are more like *characters* in our lives or on the world stage we have before us. Indeed, the idea that concepts may be better addressed, in all their dramatic, historically saturated individuality, as characters, is taken on most explicitly in Heller's 1993 *A Philosophy of History in Fragments*, in which she introduces, and puts on display, "Reason, Will and Other Characters" – to borrow the title of one chapter.²¹ Heller finds that Aristotle, beholding the spectacle of the philosophical characters that a couple hundred years of philosophizing performed, had to "compose his play on an entirely new set."²² Aristotle took up the One, the Many, the True, Motion, Rest – the whole company – and revolutionized their interactions and their purpose. The conclusion of Aristotle's dramatic revolution is his metaphysics, which Heller goes on to critique from an ordinary language perspective. In order to appreciate how Heller stands between Aristotle and Plato, though, more must first be said about one of Aristotle's central characters, the character of Justice.

²⁰ Ibid. 74.

²¹ Heller, Agnes, *A Philosophy of History in Fragments*, Cambridge, Blackwell Publishers, Inc, 1993. Chapter 3, 79–113.

²² Ibid. 79.

For all of Plato's thinking-through of justice in regards to the city of the soul or the city in the sky, Heller is developing, particularly in *Beyond Justice*, a viable socio-political position, and she thus requires more practical guidelines (or crutches, as she might call them) to stand with and against. So Heller turns to Aristotle, who presents the paradigmatically formal response, the response of 'static justice', to the question of how social conflicts should be judged and treated. While 'finding the mean' for right action involves a deliberative process of weighing opposing extremes, and while justice itself is weighed as a mean between doing and suffering injustice, Aristotle is unambiguous on questions of how to judge and treat wrongdoers. The Aristotelian idea of *proportionality* involves the use of a common measure to be employed in comparing or contrasting individuals or social groups. Proportionality, in other words, only exists where there is a clear commonality between people; insofar as people may be consistently compared, they are, in some respect, equals. Just as we exchange commodities according to a shared, consistent judgment about their worth, the common value between them, we judge people and groups only with a common standard against which they actually measure up.

The problem with the imperative of proportionality, for Aristotle, arises when there can be no proportionality between social groups, for in such cases, the clarity and consistency allowed by proportionality becomes useless. As it turns out, many more people fail to enter into relations of proportionality than achieve them. Slaves cannot be compared with free people, men cannot be compared with women, adults cannot be compared with minors nor parents with their children.²³ The asymmetry or social hierarchy that thus results functions according to another proportion: where right action means treating equals equally, it also means treating unequals unequally. One treats others, therefore, always according to one's relative placement on the all-inclusive social hierarchy; equals can treat one another justly, and people in higher social positions may choose to be just to those of lower social

²³ Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 17. ff.

strata, but there can be no question of 'justice' when a lower-ranking person does anything for one higher-ranking. Slaves, women and children, in regard to freemen, men and adults, may be obedient, faithful and submissive, but never just. In Heller's words, "Under the conditions of the all-embracing social hierarchy, both being just and being unjust are prerogatives allotted to the repositories of social authority."²⁴

Justice, then, occurs when an offense is disciplined or dismissed by a higher authority. The authority judges according to the norms of his own social group. In an asymmetrical social configuration, any form of the so-called 'golden rule' (A should treat B as B should treat A), is meaningless. Heller identifies several conflicts that tend to arise from such an asymmetrical hierarchy, such as when people personalize their social conflicts, targeting, e.g., the tax collector instead of the tax system. People may also fight to establish 'rights' for lower strata, and, in cases in which legal rights are not yet firmly established, may exchange rights for rituals of supplication. But while Heller might be the first to allow that certain absolute, even if inexplicable, differences of the spirit may exist between individuals – while she endlessly appreciates the aristocracies of intelligence, wit, integrity and creativity – Heller nowhere tolerates social hierarchy. Asymmetry in the social, political or legal realms exacerbates relations of conflictual dependency and personal mediocrity; no viable social theory or practice may withdraw from the establishment and complete application of exactly the same norms and rules to human beings.²⁵

Heller's criticism of Aristotelian social asymmetry, then, is obvious. But what is particularly interesting is the way that Heller then uses the Aristotelian elaborations of retributive and distributive justice to think-through her own suggestions. In his *Politics*,²⁶ Aristotle clarifies the reasons for criminal behavior, which were also discussed, in

²⁴ Ibid. 18.

²⁵ Ibid. 21.

²⁶ Aristotle, *The Complete Works of Aristotle*, Barnes, Jonathan ed., Princeton, Princeton University Press, 1984. 1267a14.

terms of virtues and vices, in both of his *Ethics*. Theft, for example, may be practiced to alleviate the burdens of poverty, out of an acquisitive desire improperly controlled, or for the sheer enjoyment of its criminality. Aristotle, therefore, proposes three distinct, officially authorized responses to theft: helping to alleviate the burden of poverty through employment or other legal means, teaching self-control, and the introduction to philosophy, which alone can teach people how to covet nothing but their own virtue and excellence. Heller returns to Aristotle's cluster of causes in order to identify three essential reasons for crime. She identifies: 1. strong and primary social constraints; 2. strong interests or passions of a morally negative bent; and 3. the pleasure or kick of committing a crime. It is important to notice that the first category, social constraints, does not include purely psychological constraints. Although people do commit crimes for solely psychological reasons, and although psychology plays a part in each of the three primary categories Heller distinguishes, she lauds Aristotle for recognizing that crimes committed only under psychological constraints can no longer be attributed to free and rational actors. Without the psychological category, a crime may never be fully explained, but it can, via the application of one of the three feasible categories, be sufficiently understood for judgment, correction or punishment.

Heller's unique utilization of Aristotle manifests as she puts her three borrowed categories to work. On the one hand, she absolutely insists (and this is emblematic Heller) that all people are unique and cannot be ranked or compared as wholes. The distinctive biography of each actor is the ground for any interpretation of her actions, and no biographies are identical, or proportional. In Heller's words, "To grasp the single case is a great theoretical challenge and the need to meet that challenge is perfectly legitimate."²⁷ Practically speaking, *explaining why* any one person commits a crime results in an infinity of interpretations, many of them com-

²⁷ Heller, Agnes, *Beyond Justice*, Cambridge, Blackwell Publishers, Inc, 1987. 171.

plete and even mutually exclusive. Yet, while psychologically fascinating, and stimulating for the purposes of artistic exploration, Heller gives two reasons for *not* dwelling on a psychological assessment of the criminal act. In the first place, uniqueness cannot, by definition, be ranked or compared, and ranking or comparison is precisely what is necessary for making judgments and meting out punishments. Secondly, explaining the unique actions of a unique character only through psychological motivations means, again, robbing the person judged of her rational choice and freedom. So on the one hand, Heller rejects Aristotle's social asymmetry uncompromisingly, while on the other, she returns to the Aristotelian imperative of proportionality, as well as to an Aristotelian notion of agency, to develop a position on the necessary rights and obligations of citizens. Via a relatively rational, decision-making process, which Aristotle identifies with *prohairesis*, each person can be understood as able to perform a mental act, which itself entails accountability for authorship of her deeds.

Yet here is the rub, in Heller. A judge encountering a criminal whose reasons for crime fall under either the second or third of Heller's categories (strong interests or passions of a morally negative bent, or the pleasure of committing a crime) may hold the criminal fully responsible for her behavior. Whatever the details of the criminal's biography add to the explanation of her crime, the judge has at her disposal a proportionally equivalent legal standard and a rational agent to whom she can apply it. However, if the criminal act took place as a result of the first category, strong and primary social constraints (such as extreme poverty), then the agent may be held only partially responsible for her actions. Moreover, it takes an impartial judge to decide whether the criminal act was the result of severe constraints, as well as to judge the particular criminal actor appropriately according to those constraints. Yet, as a member of a shared community, the judge is also jointly responsible for the said severe constraints on the criminal. It is generally not the case that people jointly responsible for the constrained person's actions are concurrently judged, in proportion to their responsibility, together with the social-

ly constrained person.²⁸ But if they are not present, or cannot be judged, especially if that is because they are the judges, then there can be no just, practicable form of retributive justice. As long as the first category of 'criminals' exists in a society – as long as people act criminally in response to strong, primary social constraints that have not yet been alleviated by the whole community together – then judging criminality retributively cannot be fully just. And, in Heller's words, "Only full justice is justice."

So once again, Heller returns to Aristotle. She takes up, finally, the Aristotelian notion of 'distributive justice' to recommend a relative equality in resources and procedures as conditions for the good life of the citizen and city. And she goes on to argue that *all* ethical-political concepts of justice – and this applies most of all to her own – must be backed up by the sustained ethics, morality and moral practices of real people, even if few in number. Although Aristotle's asymmetric reciprocity provides occasion for critique, his political and ethical theory also provides shoulders to stand on, for Heller is ultimately to conclude that the best possible socio-political world is not just in itself, but operates by just procedures.²⁹ She argues, having concluded her examination of Platonic and Aristotelian justice, that the establishment and defense of just procedures will entail the validation of norms and rules through value discourses guided by the universal maxim of dynamic justice. Heller's proposal of dynamic justice is crafted from her rearrangement of traditional and contemporary notions and practices, including those Platonic and Aristotelian, *given her own* insistence that humanity be viewed as the essential social group and that this group's internal relations must be that of symmetric reciprocity. In a way that cannot but remind the reader of Aristotle's discussion, at the end of his *Nicomachean Ethics*, of an outstripping notion of human decency, which may rectify even the ostensibly just law, and of his elaboration of the vital human friendship, which incorporates

²⁸ Ibid. 171. ff.

²⁹ Ibid. 270. ff.

all of the virtues but has no need of justice – Heller concludes her book on justice with the assertion: “*the good life, as an undivided and indivisible whole, is beyond justice [...] the goal of justice is beyond justice.*”³⁰

Heller’s vision of the good life is a life of honesty, of the development of our best endowments into talents, and of the strength of our personal attachments. It is honesty, the goodness and righteousness of an individual, which binds these elements. Heller’s whole enterprise, she readily admits, in reaffirming a definition of the good life with which almost no one could argue, has been all about answering the question as to how an honest person is possible here, now, in this world today. Yet answering that question, for Heller, involved a return to the ever-charged ancients. The question, as the scope of Heller’s work makes clear, also has a counterpart: how is it possible to extend the good life to others, to all others, to recreate the conditions for the development of honest people? Heller answers this question too by juxtaposing her position to that of the Greeks: “Equal life chances for all, equal freedom for all, and the regulative idea of the best possible socio-political world” are to be conceived of as a goal. Though we must insist, in the here and now, on the life chances and freedom of all, we may posit and strive toward the best possible socio-political world as a condition for sustaining those freedoms. Like a Plato who ‘tips the balance’ to help his Socrates win a wager for our commitment to moral goodness, and who posits a ‘city in the sky’ to guide our political imagination, Heller’s theory entails the unprovable insistence on the charisma of goodness and the methodical use of the regulative. Like an Aristotle who defines and delimits justice in order to correctly judge its every possible application, but who finally leaps free of the conceptual ladder of justice in arriving at the most complete notions of human virtue and virtuous relation, Heller presents a

³⁰ Ibid. 326.

meticulous philosophical genealogy of the character of Justice, in order to present the possibility of its still dynamic philosophical development.

I began by relaying Heller's comment that each philosopher follows *either* in the train of Plato *or* of Aristotle, and perhaps this was unfair, for it may have created the expectation that, by paper's end, Heller could be proved a Platonist or an Aristotelian. It would be at least as unfair to allege, now, that Heller's work belies her claim, for indeed, I believe that Heller, like all of us, does follow one train more than the other. With further examination of her assessment of Platonic and Aristotelian metaphysics and aesthetics, one might gain a clearer sense of which train it is. Here, the focus has been only on the question of justice in Heller's readings of Plato and Aristotle. In both cases what is most just, or complete justice, requires reference to a viable ethics and a moral philosophy; Heller's presentation of both must likewise be further examined in order to finally appraise her standing as a moral philosopher as a reader of the ancients. Nevertheless, from Socrates' unprovable first principle of justice to Aristotle's discussion of the decency and friendship that flourish beyond justice, we have seen Heller captivated by and committed to the notion of the whole person – unique, irreducible, and, in any real dedication to external justice, also intensely engaged in self-discovery and self-creation. So it is fair, I hope, to urge an attentiveness not just to Heller's discussions of the aesthetics and metaphysics of Plato and Aristotle, but to her appreciation of the distinctive temperaments which unify these fields of investigation. Heller would not make the psychologistic claim that we can infiltrate a thinker's ideas by first understanding his psyche. She would not claim that we ever have transparent access to the minds of characters of our thinkers, or that, given certain psychological clues, we could do any more than speculatively interpret them. But Heller would, I believe, agree with Foucault's contention that philosophers and philosophies are best characterized not by epochs, but by attitudes. Beyond what philosophical ages or doctrines can typify, there is a positioning, a stance, and an approach that is like the bearing of a theory and its thinker. Through Heller's reflections upon

and utilizations of the Greeks, through her embracing as much as her rejection of their ideas, her awareness of the attitudes of Plato and Aristotle becomes discernable. It is in her appreciation of each attitude, and in the manifestation of her own, that the character of Heller's love manifests.